

Dawn Wilson - FW: Arizona Frank Tricamo Reply to Mike Glaser



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ORIGINAL

From: "Frank @ Denverpcs.com" <frank@denverpcs.com>
To: "Maureen Scott" <miscott@cc.state.az.us>, "Lynn Farmer"
<LFarmer@CC.STATE.AZ.US>
Date: 6/16/03 2:46PM
Subject: FW: Arizona Frank Tricamo Reply to Mike Glaser

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2003 JUN 17 P 3:37

ARIZONA CORPORATION COMMISSION
DOCUMENT CONTROL

-----Original Message-----

From: Frank @ Denverpcs.com [mailto:frank@denverpcs.com]
Sent: Monday, June 16, 2003 2:53 PM
To: Mike Glaser; Judge Dion
Subject: Arizona Frank Tricamo Reply to Mike Glaser

03889

T-30889A-02-0796
T-04125A-02-0796

Please read the attached, I received the attached "Tiff" on Saturday.
Everyone needs to understand that I had no idea this case existed. For the
record, "I would want counsel and am not willing to receive a default
judgement since I still dont know what the judgement would be about.

Frank Tricamo
303-210-6700
frank@denverpcs.com

Arizona Corporation Commission
DOCKETED
JUN 17 2003

DOCKETED BY *mae*

2nd Docketed copy:
Amended to include affidavit

Michael L Glaser
Shughart, Thompson & Kilroy
1050 Seventeenth Street Suite #2300
Denver, Colorado 80265

RE: The Phone Company Management Group, LLC
Arizona Corporation Commission
Docket Nos. T-~~30889~~A-02-0796 & T-04125A-02-0796
03889

Dear Mr. Glaser,

I am in receipt of your letter dated June 13, 2003, delivered "Saturday Delivery" June 14th, 2003. This gives me from June 16th to June 20th to obtain all documentation in regards to this case and retain counsel. I am concerned and alerted by several of the items you presented. First, if you knew on June 5, 2003 that I needed to have a statement to the ALJ by June 20, 2003, why did you wait 8 days to notify me? Second, the "as you know" statement written into your cover letter; as you are aware I have had no communication with you about this case. I have had no communication with Tim Wetherald, David Johnson, Marc Shiner or Leon Swichkow since late December 2002 or early January 2003. At which point I was never informed of any Regulatory case in Arizona. I was only aware of potential Lawsuits being brought by the Partners.

As you may/or may not be aware I was terminated from On Systems Technology, LLC on October 19, 2002 by Tim Wetherald because of our differences concerning the Partners. Since my termination I have not been allowed any information from Tim Wetherald, David Stafford Johnson or yourself about the ongoing operations of any company owned, operated or managed by On Systems Technology, LLC. Although I will admit to owning interest in On Systems Technologies and On Systems LLC I have to negate any direct ownership in any company in Arizona. I am familiar with Livewire and a Joint Venture (On Systems and the referred to LLP (Partners)).

Since I have no knowledge of the above referenced dockets let alone the state of the above referenced dockets I cannot release you from representation until I am fully prepped on what has taken place and how I am involved. I will need to see all the information that has been filed on behalf of On Systems Technology LLC and Frank Tricamo. I will need to be brought up to speed on what ramification I face if you pull from the hearing and I need to know what this means to me personally.

I am now in a very unexpected situation involving the dockets filed in Arizona because of what might or might not have been done in my name or the name of the company I am part owner of. I feel it was your professional reasonability to keep me informed of the information you might have been providing in my name.

I am unable, at this time, to sign the Affidavit you drafted and sent to me because I am not fully versed on the subject matter and the time frame presented is not a reasonable amount of time to receive and review all documents in this case. I am also concerned that if you only represented me for the company, how could you draft an affidavit in my name. I will hold on to the Affidavit until I receive the information requested from you. If at that time I feel that I have no liability due from your actions, or inactions I will get consultation on signing an affidavit.

Sincerely,

Frank Tricamo

CC: Judge Dion
Arizona Corporation Commission

The Law Firm Of



A Professional Corporation

Michael L. Glaser
mglaser@stklaw.com
Direct Dial (720) 931-8133
Fax (303) 572-7883

June 13, 2003

Via Federal Express

Frank Tricamo
6888 South Yukon Court
Littleton, Colorado 80128

Re: The Phone Company Management Group, LLC, et al.
Arizona Corporation Commission
Docket Nos. T-03889A-02-0796 and T-04125A-02-0796

Dear Frank:

As you know, On Systems Technology, LLC ("On Systems") and its wholly owned subsidiary, The Phone Company Management Group, LLC ("PCMG"), and On Systems' members between the dates January 1, 2002 and October 18, 2002, have been named respondents in a Complaint brought by the Staff of the Utilities Division of the Arizona Corporation Commission ("Commission") on October 18, 2002, in the above-referenced dockets. As you are aware, the Complaint asserts, among other things, that PCMG was operating without a Certificate of Convenience and Necessity ("CCN"), and is not qualified to hold such a certificate. As you also know, the Complaint was brought after certain partners of The Phone Company of Arizona Limited Liability Partnership ("Arizona LLP") (who are also partners in the Colorado Mile High Telecom Partners, LLP) contacted the Commission Staff to complain about formation of the Arizona LLP, formation of The Phone Company of Arizona Joint Venture, a joint venture comprised of On Systems and the Arizona LLP (the Arizona Joint Venture), and the activities of On Systems in connection with the Arizona LLP and the Arizona Joint Venture, Mile High Telecom Partners, LLP, and Mile High Telecom Joint Venture, in providing local exchange service in Arizona and Colorado, respectively.

I entered an appearance in these dockets on behalf of On Systems, On Systems' members (including yourself), and PCMG, at the direction of Tim Wetherald, Manager of On Systems and PCMG, in January 2003. We understand that while you are an investor in On Systems, and that you headed certain operations at On Systems, you no longer hold that position and have not since some time in 2002.

As you probably know, while the case was proceeding before the Commission, PCMG was ordered to notify its customers of possible termination of service by Qwest, based upon PCMG's dispute with Qwest, similar to the dispute which Mile High Telecom Joint Venture had

Frank Tricamo
June 13, 2003
Page 2

with Qwest in Colorado. When PCMG appealed the ruling, the Staff sent such a letter to the customers of PCMG in March 2003, the effect of which was to effectively destroy the Arizona customer base of PCMG. Accordingly, on April 1, 2003, Mr. Wetherald, on behalf of PCMG, voluntarily surrendered PCMG's CCN to provide service in Arizona, and PCMG canceled its tariff in Arizona, and ceased to provide local exchange service in Arizona. Mr. Wetherald instructed our firm to engage in no further representation and perform no further legal services for PCMG, On Systems, or its members, and instructed our firm to withdraw as counsel to these parties in the above-captioned dockets.

We complied with Mr. Wetherald's request and filed a Motion to Withdraw on April 14, 2003, with the Commission. The Commission's presiding administrative law judge in these dockets, The Honorable Philip J. Dion III, has under consideration our Motion to Withdraw. In this connection, Judge Dion has directed that we provide affidavits from the respondent members of On Systems acknowledging that On Systems and PCMG, as limited liability companies, must be represented by legal counsel under the Commission's rules, but that you as an individual respondent have the option of either retaining counsel or representing yourself. Judge Dion has also requested that we provide your current address and telephone number as part of the affidavit, and your statement that you understand that if you do not appear either through counsel or by yourself, the Commission could enter a default against you.

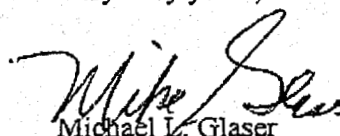
Therefore, I am enclosing an Affidavit which contains the information requested by Judge Dion.

I would appreciate it if you would review the enclosed Affidavit, contact me if you have any questions about the Affidavit or Judge Dion's requirements, or changes, or if not, execute the Affidavit in front of a notary public, and return to me for filing with Judge Dion. Judge Dion has ordered that your Affidavit be filed with him by June 20, 2003.

As you may already know, Mr. Wetherald has also provided me with an Affidavit containing substantially the same information. The other member of On Systems, Mr. David Johnson, has verbally supplied the information Judge Dion requested on the record in a procedural conference held June 5, 2003.

I look forward to your call or receiving the original signed Affidavit, if you have no questions.

Very truly yours,


Michael L. Glaser

MLG:clb
Enclosure

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 MARC SPITZER

3 Chairman

4 JAMES M. IRVIN

5 Commissioner

6 WILLIAM A. MUNDELL

7 Commissioner

8 JEFF HATCH-MILLER

9 Commissioner

10 MIKE GLEASON

11 Commissioner

12 UTILITIES DIVISION STAFF,

13 Complainant,

14 LIVEWIRENET OF ARIZONA, LLC n/k/a THE PHONE
15 COMPANY MANAGEMENT GROUP, LLC; THE PHONE
16 COMPANY OF ARIZONA JOINT VENTURE, d/b/a THE
17 PHONE COMPANY OF ARIZONA; ON SYSTEMS
18 TECHNOLOGY, LLC, and its principals, TIM
19 WETHERALD, FRANK TRICAMO, and DAVID
20 STAFFORD JOHNSON; THE PHONE COMPANY OF
21 ARIZONA, LLP and its members,

22 Respondents.

Docket No. T-03889A-02-0796
T-04125A-02-0796

23 IN THE MATTER OF THE PHONE COMPANY OF
24 ARIZONA JOINT VENTURE d/b/a THE PHONE
25 COMPANY OF ARIZONA'S APPLICATION FOR
26 CERTIFICATE OF CONVENIENCE AND NECESSITY TO
27 PROVIDE INTRASTATE TELECOMMUNICATIONS
28 SERVICE AS A LOCAL AND LONG DISTANCE
RESELLER AND ALTERNATIVE OPERATOR SERVICE.

Docket No. T-04125A-02-0577

IN THE MATTER OF THE APPLICATION OF THE
PHONE COMPANY MANAGEMENT GROUP, LLC f/k/a
LIVEWIRENET OF ARIZONA, LLC TO DISCONTINUE
LOCAL EXCHANGE SERVICE.

Docket No. T-03889A-02-0578

IN THE MATTER OF THE APPLICATION OF THE
PHONE COMPANY MANAGEMENT GROUP, LLC FOR
CANCELLATION OF FACILITIES BASED AND RESOLD
LOCAL EXCHANGE SERVICES.

Docket No. T-03889A-03-0152

IN THE MATTER OF THE APPLICATION OF THE
PHONE COMPANY MANAGEMENT GROUP, LLC d/b/a
THE PHONE COMPANY FOR THE CANCELLATION OF
ITS CERTIFICATE OF CONVENIENCE AND
NECESSITY.

Docket No. T-03889A-03-0202

**AFFIDAVIT OF FRANK
TRICAMO**

1 I, Frank Tricamo, first being duly sworn, depose and state:

2 1. My name is Frank Tricamo.

3 2. My current address is: 6888 South Yukon Court, Littleton, Colorado 80128.

4 3. My current telephone number is (303) 210-6700.

5 4. I am a member of On Systems Technology, LLC, a Colorado limited liability
6 company ("On Systems Technology").

7 5. On Systems Technology owns the membership in The Phone Company
8 Management Group, LLC, an Arizona limited liability company ("PCMG").

9 6. I am named as a respondent in the above-captioned Docket Nos. T-03889A-02-
10 0796 and T-04125A-02-0796 and related dockets before the Arizona Corporation Commission
11 ("Commission").

12 7. PCMG filed an Application to Discontinue Local Exchange Service in Docket
13 No. T-03889A-02-0578 on March 12, 2003. PCMG also voluntarily surrendered its Certificate
14 of Convenience and Necessity ("CCN") for cancellation on April 1, 2003. The CCN authorized
15 PCMG to provide facilities-based and resale local exchange services in Docket No. T-03889A-
16 03-0152 and T-03889A-03-0202.

17 8. It is my understanding that PCMG and On Systems Technology must be
18 represented by legal counsel before the Commission, and that if PCMG and On Systems
19 Technology do not retain counsel to represent them in these dockets, or if PCMG and On
20 Systems Technology do not appear to present evidence, the Commission may proceed against
21 PCMG and On Systems Technology in absentia, that is, without those entities being present,
22 and the Commission may enter a default against them.

23 9. It is also my understanding that, as a respondent in the above-captioned
24 proceedings, I have the option of retaining counsel to represent me in appearing and presenting
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1 evidence, or representing myself, but if I do not appear and present evidence, either through
2 counsel or by myself, the Commission may proceed against me, in absentia, that is, without me
3 being present, and the Commission may enter a default against me.

4 10. My interests and the interests of PCMG and On Systems Technology, and any
5 other member of On Systems Technology, may be divergent, such that there may be a conflict
6 of interest between me and PCMG and/or On Systems Technology or its other members, which
7 would necessitate these entities or persons to retain separate counsel to represent them in the
8 above-captioned dockets.
9

10 11. I am providing the foregoing statements pursuant to the direction of The
11 Honorable Philip J. Dion III, Administrative Law Judge, Arizona Corporation Commission, to
12 Michael L. Glaser, Esq., Shughart Thomson & Kilroy, P.C., former counsel for PCMG and On
13 Systems Technology and me, as stated on the record in a procedural conference held in the
14 above-referenced dockets on June 5, 2003.
15

16 The foregoing statements are true and correct to my personal knowledge.
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19 _____
20 Frank Tricamo
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1 STATE OF COLORADO)
2) ss.
3 COUNTY OF _____)
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5 On this _____ day of June, 2003, before me the undersigned, a Notary Public, in and for
6 the County and State aforesaid, personally appeared, to me known to be the person who
7 executed the foregoing instrument in my presence and acknowledged to me that executed the
8 same as free act and deed.

9 IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal
10 the day and year last above written.

11 My Commission Expires: _____

12 NOTARY PUBLIC

13 [SEAL]
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